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Fulton, Baeuerlen, Gent, Gawith, Edwards, Santini, and Wilson

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

EUGENE DISTRICT

ANZHELIKA PAYNE, personal representative to
the estate of LANDON JAY PAYNE,

Plaintiff,

v.

JAIRO SOLORIO, an individual, ANDREW
ROBERTS, an individual, JACOB THOMAS, an
individual, ROBERT GRIESEL, an individual,
JUSTIN WILSON, an individual, ZACHERY
FULTON, an individual, EMMA GROTEFEND,
also known as EMMA EDWARDS, an
individual, COLTER GAWITH, an individual,
NATHAN GENT, an individual, MICHAEL
BAEUERLEN, an individual, STEPHEN
FOLEY, an individual, JOSEPH FISHER, an
individual, JEREMY FIFER, an individual,
WILLIAM MCCLURE, an individual, LANCE
JESTER, an individual, RICHARD CLINTON
RILEY, an individual, CONNOR WEST
SANTINI, an individual, LANE COUNTY, and
CITY OF EUGENE, a municipal corporation.

Defendants.

Case No. 6:22-cv-00471-MC

**LANE COUNTY DEFENDANTS'
MOTION FOR STAY PENDING
APPEAL**

I. CERTIFICATE OF COMPLIANCE WITH LR 7-1

The undersigned attorney certifies that she conferred with the attorneys for Plaintiff and for Defendants City of Eugene, Solorio, Roberts, Thomas and Griesel. Plaintiff opposes this motion.

Defendants City of Eugene, Solorio, Roberts, Thomas and Griesel do not oppose this motion.

II. MOTION

Defendants Lane County, Riley, Jester, McClure, Fifer, Fisher, Foley, Fulton, Baeuerlen, Gent, Gawith, Edwards, Santini, and Wilson (“County Defendants”) move to stay the District Court proceedings pending Defendants Fulton and Santini’s appeal of the Court’s Opinion and Order (ECF No. 84) of December 23, 2024.

III. ARGUMENT

On January 16, 2025, Defendants Fulton and Santini appealed the part of the Opinion and Order that denied their motion for summary judgment based on qualified immunity. The denial of their motion is immediately appealable. *Mitchell v. Forsyth*, 472 U.S. 511 (1985).

The appeal automatically stays the proceedings in this Court pending appeal unless this Court certifies that the claim of qualified immunity is frivolous or has been waived. *Chuman v. Wright*, 960 F.2d 104, 105 (9th Cir.1992). The claim of qualified immunity is not frivolous, as Defendants Fulton and Santini have a good faith argument that they are entitled to qualified immunity. See Lane County Defendants’ Motion for Summary Judgment (ECF No. 57) at pages 16-19 and 27. These defendants have not waived qualified immunity.

Under these circumstances, the District Court proceedings should be stayed.

IV. CONCLUSION

The Court should grant this motion and stay the proceedings in this Court until the Ninth Circuit Court of Appeals has resolved the appeal.

DATED this 28th day of January 2025.

HUTCHINSON COX

By: s/Andrea D. Coit

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CERTIFICATE OF SERVICE

I certify that on January 28, 2025, I served or caused to be served a true and complete copy of the foregoing **LANE COUNTY DEFENDANTS' MOTION FOR STAY PENDING APPEAL** on the party or parties listed below as follows:

- ☒ Via the Court's Efiling System
- ☐ Via First-Class Mail, Postage Prepaid
- ☐ Via Email
- ☐ Via Personal Delivery
- ☐ Via Facsimile

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